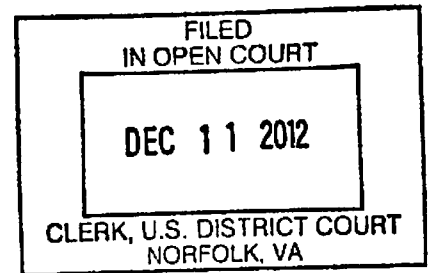


UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
NORFOLK DIVISION



MORPHO DETECTION, INC.,

Plaintiff,

v.

SMITHS DETECTION INC.,

Defendant.

Case No. 2:11-CV-498-MSD-TEM

REDACTED COPY

VERDICT FORM

When answering the following questions and filling out this Verdict Form, please follow the directions provided throughout the form. Your answer to each question must be unanimous. Some of the questions contain legal terms that are defined and explained in detail in the Jury Instructions. Please refer to the Jury Instructions if you are unsure about the meaning or usage of any legal term that appears in the questions below.

We, the jury, unanimously agree to the answers to the following questions and return them under the instructions of this court as our verdict in this case.

DIRECT INFRINGEMENT

1. Do you find that Morpho has proven by a preponderance of the evidence that Smiths' directly infringes the following claims of the '670 patent? *[Circle YES (for a finding in favor of Morpho) or NO (for a finding in favor of Smiths)]*

Claim 12:	<u>YES</u>	NO
Claim 13:	<u>YES</u>	NO
Claim 14:	<u>YES</u>	NO
Claim 17:	<u>YES</u>	NO
Claim 20:	<u>YES</u>	NO
Claim 21:	<u>YES</u>	NO
Claim 23:	<u>YES</u>	NO

INDIRECT INFRINGEMENT

2. Do you find that Morpho has proven by a preponderance of the evidence that Smiths has contributed to or actively induced others to infringe the following claims of the '670 patent using the IonScan 500DT in the United States? *[Circle YES (for a finding in favor of Morpho) or NO (for a finding in favor of Smiths)]*

Claim 20	<u>YES</u>	NO
Claim 21	<u>YES</u>	NO
Claim 23	<u>YES</u>	NO

INVALIDITY - ANTICIPATION

3. Do you find that Smiths has proven by clear and convincing evidence that each and every limitation of claim 20 of the '670 patent is present in U.S. Patent No. 5,403,386 to Collier? *[Circle YES (for a finding in favor of Smiths) or NO (for a finding in favor of Morpho)]*

YES

NO

INVALIDITY – OBVIOUSNESS

4. With respect to obviousness, do you find that Smiths has proven by clear and convincing evidence that the following reference is analogous to the '670 patent? *[Circle YES (for a finding in favor of Smiths) or NO (for a finding in favor of Morpho)]*

U.S. Patent No. 3,513,631 to Seibert:

YES

☒ NO

5. Do you find that Smiths has proven by clear and convincing evidence that the combination of U.S. Patent No. 3,513,631 to Seibert with U.S. Patent No. 5,405,781 to Davies possesses each and every limitation of the following claims of the '670 patent? *[Circle YES (for a finding in favor of Smiths) or NO (for a finding in favor of Morpho)]*

Claim 12 YES

☒ NO

Claim 13 YES

☒ NO

Claim 14 YES

☒ NO

Claim 17 YES

☒ NO

Claim 20 YES

☒ NO

Claim 21 YES

☒ NO

Claim 23 YES

☒ NO

6. Do you find that Smiths has proven by clear and convincing evidence that there was motivation for one of ordinary skill in the art at the time of the invention to combine the following references? *[Circle YES (for a finding in favor of Smiths) or NO (for a finding in favor of Morpho)]*

U.S. Patent No. 3,513,631 to Seibert with U.S. Patent No. 5,405,781 to Davies:

YES

☒ NO

7. Please indicate with a circle which of the secondary considerations of nonobviousness that Morpho has proven by a preponderance of the evidence are present in this case and exist for reasons that are related to the claimed invention (as opposed to some other factor) *[Circle YES (for a finding in favor of Morpho) or NO (for a finding in favor of Smiths)]*:

Were products covered by the asserted claims commercially successful?

☒ YES

NO

Did the asserted claims satisfy a long-felt but unresolved need?

☒ YES

NO

Did others endeavor and fail to make the asserted claims?

☒ YES

NO

Did the asserted claims receive praise in the industry?

☒ YES

NO

Did others copy any product that is covered by the asserted claims?

☒ YES

NO

8. Do you find that Smiths has proven by clear and convincing evidence that the following claims of the '670 patent would have been obvious to a person of ordinary skill in the field at the time the patent application was filed? *[Circle YES (for a finding in favor of Smiths) or NO (for a finding in favor of Morpho)]*

Claim 12	YES	<input checked="" type="radio"/> NO
Claim 13	YES	<input checked="" type="radio"/> NO
Claim 14	YES	<input checked="" type="radio"/> NO
Claim 17	YES	<input checked="" type="radio"/> NO
Claim 20	YES	<input checked="" type="radio"/> NO
Claim 21	YES	<input checked="" type="radio"/> NO
Claim 23	YES	<input checked="" type="radio"/> NO

If you find that Smiths has not infringed any asserted claim of the '670 Patent, or if you find that a claim may be infringed, but that claim is invalid, then go to the end of the verdict form and sign it as directed.

If you find any asserted claim of the '670 Patent infringed and not invalid, then you shall award Morpho damages.

DAMAGES

9. Do you find that Morpho has proven by a preponderance of the evidence that Smiths did not have an acceptable non-infringing alternative to the IonScan 500DT that was available? *[circle YES (for a finding in favor of Morpho) or NO (for a finding in favor of Smiths)]*

YES

NO

If you answered yes to question 9, proceed to question 10. Otherwise, if you answered no to question 9, skip question 10 and proceed to question 11.

10. (a) Has Morpho proven by a preponderance of the evidence that it is entitled to lost profits as a result of any of the sales of Smiths' IonScan 500DT? *[circle YES (for a finding in favor of Morpho) or NO (for a finding in favor of Smiths)]*

YES

NO

- (b) *If you answered yes to question 10(a), what is the dollar amount, if any, due to Morpho in lost profit damages?*

\$ 1.6 million

11. For any infringing sales on which Morpho has not proven it is entitled to lost profits, which would include the 9 for which Morpho did not seek lost profits, what is the per unit reasonable royalty in dollars, and the total dollar amount due to Morpho in reasonable royalty damages? *[if you answered yes to 10(a), the dollar amount must not include any royalties on sales that were included in your response to question 10(b).]*

\$ 7500.00

(reasonable royalty per unit)

x 48 units

(multiply by number of sales for which Morpho has not proven it is entitled to lost profits)

= \$ 360,000

(total dollar amount due to Morpho)

Pursuant to the E-Government Act,
the original of this page has been filed
under seal in the Clerk's Office.

Dated: 12/11/12
